

Message Text

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INFO OCT-01 EUR-25 ISO-00 SCS-03 SCA-01 H-03 SNM-02 NEA-14

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DRAFTED BY L/NEA:ATBROWN:DLS

APPROVED BY AMBASSADOR MACOMBER

EUR/TUR:RDILLON

L:MFELDMAN

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O 202234Z MAY 74

FM SECSTATE WASHDC

TO AMEMBASSY ANKARA IMMEDIATE

C O N F I D E N T I A L STATE 105326

STADIS////////////////////////////////////

E.O. 11652: GDS

TAGS: CASC, TU

SUBJECT; HAYES CASE

REF: (A) ANKARA 3457, (B) STATE 98820

1. FOLLOWING IS PROPOSED "FRIENDLY NOTE" SUGGESTED REF (A) FOR DELIVERY TO FOREIGN MINISTER. THIS NOTE GOES ABOUT AS FAR AS WE THINK WE CAN IN THE DIRECTION OF A USG UNDERTAKING OF RESPONSIBILITY FOR SERVICE BY HAYES OF HIS SENTENCE IN THE UNITED STATES. AS INDICATED REF B, PARA 4, THERE IS NO BASIS FOR ANY DETENTION WHATEVER OF HAYES BY ANY UNITED STATES OR STATE AUTHORITY. ACCORDINGLY, THE ENTIRE PROCEDURE SUGGESTED BELOW IS DEPENDENT UPON THE CONTINUING WILLINGNESS OF HAYES TO COOPERATE. WE ALSO BELIEVE THAT ANY PRIOR AGREEMENT BY HAYES TO COOPERATE ALONG THE LINES OUTLINED BELOW WILL NOT BE ENFORCEABLE AGAINST HIM SHOULD HE CHANGE HIS MIND FOR ANY REASON, DUE TO THE OBVIOUS DURESS UNDER WHICH SUCH AN AGREEMENT WOULD BE MADE BY HIM.

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2. THE FOLLOWING NOTE HAS BEEN DISCUSSED WITH AMBASSADOR
MACOMBER. QUOTE:

YOUR EXCELLENCY:

AS I HAVE INDICATED TO YOU IN THE COURSE OF DISCUSSIONS

ON THIS SUBJECT, MY GOVERNMENT IS DEEPLY CONCERNED ON
HUMANITARIAN GROUNDS FOR THE WELFARE OF AN AMERICAN
CITIZEN, WILLIAM HAYES, PRESENTLY SERVING A 30-YEAR SEN-
TENCE IN TURKEY UPON HIS CONVICTION FOR ATTEMPTING TO
TAKE A SMALL QUANTITY OF HASHISH OUT OF TURKEY. MR. HAYES'
PRIOR MEDICAL HISTORY AND THE REPORTS OF UNITED STATES
CONSULAR OFFICERS WHO HAVE VISITED HIM IN PRISON HAVE
LED MY GOVERNMENT TO THE BELIEF THAT HIS PHYSICAL AND
MENTAL HEALTH CAN BEST BE PROTECTED BY HIS RETURN TO THE
UNITED STATES WHERE HE WOULD BE IN CLOSER PROXIMITY TO
HIS PERSONAL DOCTORS AND FAMILY.

UNDER THESE UNUSUAL CIRCUMSTANCES, I WISH TO PROPOSE THAT
MR. HAYES BE RELEASED TO THE CUSTODY OF THE UNITED
STATES EMBASSY IN ANKARA. MR. HAYES WOULD THEN BE
ESCORTED BY A UNITED STATES MARSHAL FROM ANKARA TO ONE
OF THE UNITED STATES, WHERE HE WOULD BE DELIVERED TO
APPROPRIATE AUTHORITIES FOR SERVICE OF HIS SENTENCE IN
ACCORDANCE WITH THE LAWS, REGULATIONS AND PROCEDURES
APPLICABLE UNDER SUCH CIRCUMSTANCES IN THAT STATE. WE
PRESENTLY ANTICIPATE THIS WOULD INVOLVE VOLUNTARY SUPER-
VISION IN MICHIGAN SIMILAR TO THAT ARRANGED FOR OTHER
UNITED STATES CITIZENS SENTENCED ABROAD.

AS ALWAYS, MY EMBASSY, THROUGH THE UNITED STATES DEPART-
MENT OF STATE, REMAINS PREPARED IN APPROPRIATE CASES TO
CONSIDER MAKING RECOMMENDATIONS TO PROSECUTORIAL AUTHOR-
ITIES IN THE UNITED STATES FOR THE RELEASE OF TURKISH
SUSPECTS OR PRISONERS WHO WISH TO DEPART THE UNITED
STATES AND SUBMIT THEMSELVES TO THE JURISDICTION OF THE
GOVERNMENT OF TURKEY.

FOR THE HUMANITARIAN REASONS I HAVE DESCRIBED, I HOPE
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YOU WILL BE ABLE TO RELEASE MR. HAYES TO THE CUSTODY OF
MY EMBASSY FOR THE PURPOSES OUTLINED ABOVE, THEREBY
ALLEVIATING THE CONCERN OF HIS FAMILY AND PHYSICIANS AND
AGAIN DEMONSTRATING THE COOPERATION WHICH HAS CHARACTER-
IZED THE RELATIONS BETWEEN OUR TWO COUNTRIES FOR MANY
YEARS.

ACCEPT, EXCELLENCY, THE ASSURANCE OF MY HIGHEST CONSIDER-

ATION. END QUOTE.

4. A NUMBER OF STEPS REMAIN BEFORE THIS LETTER CAN BE DELIVERED TO GOT. ARRANGEMENTS FOR SENDING A FEDERAL MARSHAL TO ANKARA AND FOR PAYMENT OF THE MARSHAL'S EXPENSES HAVE NOT BEEN WORKED OUT. WE HAVE NOT YET DISCUSSED THIS APPROACH WITH HAYES' ATTORNEY, AND WE HAVE NOT YET RECEIVED CONFIRMATION FROM THE AUTHORITIES OF

ANY STATE (PROBABLY MICHIGAN) THAT THEY ARE WILLING TO ACCEPT HAYES IN VOLUNTARY PAROLE STATUS. THE ABOVE TEXT, THEREFORE, IS FOR THE EMBASSY'S COMMENTS PENDING COMPLETION OF DETAILS HERE. HAVING GONE OVER THIS APPROACH WITH AMBASSADOR MACOMBER, WE WILL NOW MOVE FORWARD QUICKLY TO COMPLETE THE REMAINING DETAILS AND WILL NOTIFY THE EMBASSY WHEN THE LETTER CAN BE DELIVERED.

5. DEPT WISHES TO EMPHASIZE DANGERS INHERENT IN THIS APPROACH. HAYES WILL BE ENTITLED TO WALK AWAY FROM U.S. "CUSTODY" WHENEVER HE CHOOSES: USG HAS NO BASIS TO HOLD HIM IN ANKARA EMBASSY, ON AIRPLANE, IN NEW YORK, IN MICHIGAN OR ANY PLACE ELSE. STATE OF MICHIGAN CAN ONLY SUPERVISE "PAROLE"; IT CANNOT MAKE HAYES STAY WITHIN STATE OR TAKE ANY ACTION IF HE LEAVES. EVEN IF HAYES AGREES TO SUPERVISED PAROLE AT OUTSET, WE FEEL IT LIKELY HE WILL LEAVE MICHIGAN SOONER RATHER THAN LATER. WE ALSO THINK IT LIKELY THE STORY OF HAYES RELEASE IN TURKEY AND TOTAL FREEDOM HERE WILL APPEAR VERY QUICKLY IN THE PRESS. OUR CONCERN IS THAT USG NOT APPEAR TO HAVE DUPED GOT; IN ADDITION, EMBASSY SHOULD EVALUATE REACTION OF GOT TO PRESS STORIES ON ALL THIS IN THE CONTEXT OF OTHER IMPORTANT NEGOTIATIONS NOW IN PROCESS (OPIUM BAN, EW, IA'S AND, POSSIBLY, ANTAKYA 3). AMBASSADOR WOULD PROPOSE
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TO ADVISE FONMIN ORALLY AT TIME OF DELIVERY OF LETTER THAT "VOLUNTARY SUPERVISION" REFERS TO A PAROLE STATUS WHICH WOULD BE INDEED VOLUNTARY.

6. AS WE HOPE TO BE ABLE TO WORK OUT DETAILS AND DELIVER NOTE IN NEXT 2-3 DAYS, EMBASSY RESPONSE ASAP APPRECIATED.
RUSH

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